



Attorney Docket No. 0756-7223

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Koichiro TANAKA

Serial No. 10/721,075

Filed: November 26, 2003

For: LASER IRRADIATION APPARATUS,

LASER IRRADIATION METHOD,

AND METHOD FOR

MANUFACTURING A

SEMICONDUCTOR DEVICE

) Group Art Unit: 1793

) Examiner: Maria A. Elve

) CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on October 23, 2008.

) Adelle M. Stamps

)

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Honorable Commissioner of Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

The present *Request* is filed pursuant to the provisions of the Pre-Appeal Brief Conference Pilot Program (1296 Off. Gaz. Pat. Office 67 (July 12, 2005); extended January 10, 2006).

The final Official Action mailed July 23, 2008, has been received and its contents carefully noted. Filed concurrently herewith is a *Notice of Appeal*. Accordingly, the Applicant respectfully submits that this response is being timely filed.

The Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. The review is requested for the following reasons.

The Official Action includes improper rejections, errors in fact and omissions of essential elements required to establish a *prima facie* case of anticipation or obviousness.

The final Official Action mailed July 23, 2008, is improper for failing to address the features added to independent claims 1, 19 and 37 or the detailed arguments regarding independent claims 10, 28 and 46 and thus failing to present either a *prima facie* case of anticipation or obviousness. The Applicant notes that the "Response to Arguments" section at page 8 of the final Official Action mailed July 23, 2008, is silent as to the matter. Also, pages 2-7 of the final Official Action, are substantively identical to pages 2-7 of the non-final Official Action mailed January 9, 2008, and fail to address these features.

Independent claims 1, 19 and 37 recite that a portion of a beam spot of a first laser beam and an entire portion of a plurality of beam spots of second laser beams are overlapped with each other. Independent claims 10, 28 and 46 recite that a beam spot of a first laser beam is larger than that of a second laser beam. These features are supported in the present specification, for example, by page 20, lines 28-34; page 21, lines 15-19; and Figures 5 and 7 (Figure 7 reproduced at right). See the Applicant's detailed discussion of these features at pages 16-19 of the *Amendment* filed April 9, 2008. For example, a portion of a beam spot (e.g. 1570) of a first laser beam and an entire portion of a plurality of beam spots (e.g. 1571, 1572) of second laser beams are overlapped with each other. Also, for example, a beam spot (e.g. 1570) of a first laser beam is larger than that (e.g. 1571, 1572) of a second laser beam.

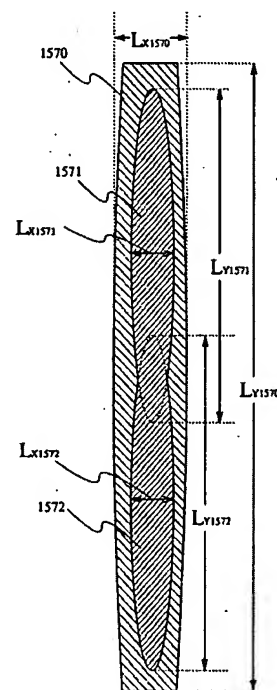
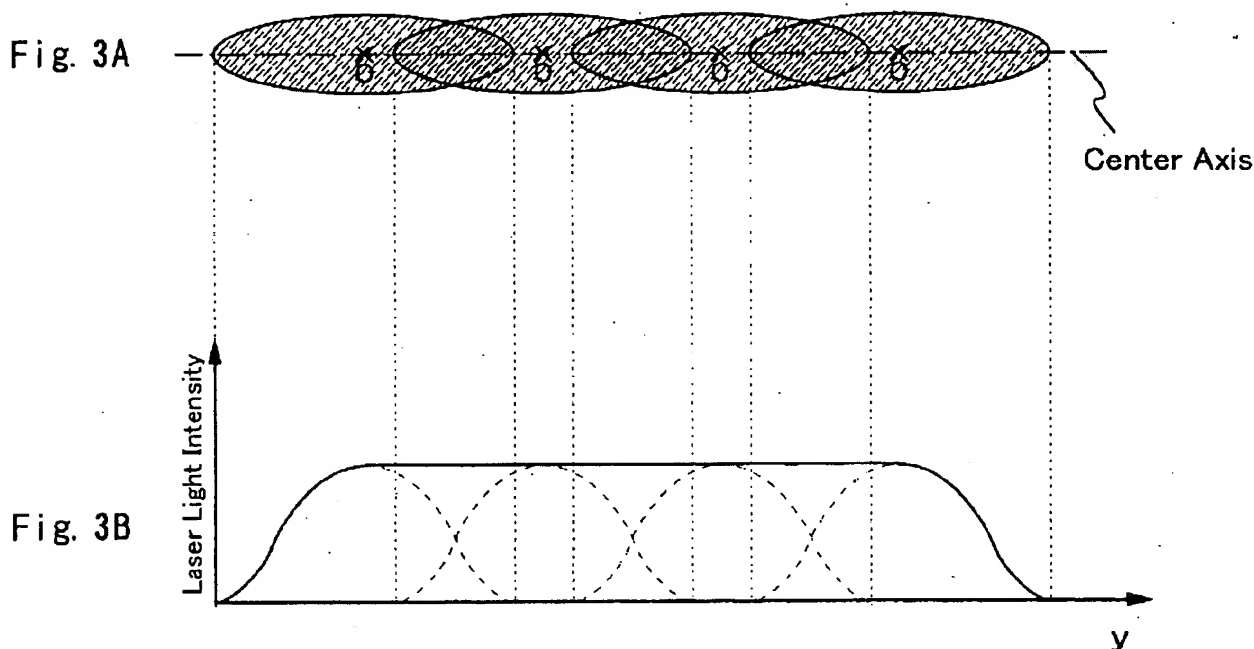


FIG. 7

The final Official Action appears to be silent as to these features. While the final Official Action continues to rely on Figures 3A and 3B of Yamazaki '096 (reproduced below) to allegedly teach that beam spots overlap each other (page 4, Paper No. 20080721), Figures 3A and 3B of Yamazaki '096 appear to merely show that "the beam spots of respective laser lights are combined by matching the major axes of respective

ellipses and also having the beam spots overlap each other, thereby forming one beam spot" (column 6, lines 1-5). Also, in Yamazaki '096, the first and second laser beam spots have the same shape and size.



However, Yamazaki '096 does not teach, either explicitly or inherently, or suggest at least either that a portion of a beam spot of a first laser beam and an entire portion of a plurality of beam spots of second laser beams are overlapped with each other; or that a beam spot of a first laser beam is larger than that of a second laser beam.

Also, the final Official Action continues to refer to an "absorption coefficient" (pages 5-7) although these features are no longer recited in the present claims.

For the reasons of record, Yamazaki '772, '292 and '375 do not cure the above-referenced deficiencies in Yamazaki '096; Yamazaki '096 or '772 does not teach all the elements of the independent claims; either explicitly or inherently; and Yamazaki '096, '292 and '375 do not teach or suggest all the claim limitations.

In an attempt to resolve this matter without further burden on the Office, the Applicant's representative conducted a telephonic interview with Primary Examiner Elve

on October 22, 2008. Regarding claims 1, 19 and 37, during the interview, the Applicant's representative presented the Examiner with the information presented in the present *Request*, and noted the specific deficiencies in the final Official Action. In response, the Examiner raised new concerns regarding an alleged lack of clarity in the claims. The Applicant noted that the record does not contain evidence of any of the Examiner's concerns raised during the interview. The Examiner was not able to demonstrate how the prior art of record teaches or suggests the above-referenced features of the present claims. Also, during the interview, the Examiner conceded that she understands the difference between, for example, Figure 7 of the Applicant's disclosure and Figure 3A of Yamazaki '096.

Regarding claims 10, 28 and 46, during the interview, Ms. Elve admitted that she was not fully prepared for the interview and did not further review the matter. The Applicant's representative explained that a beam spot (e.g. 1570) of a first laser beam is larger than that (e.g. 1571, 1572) of a second laser beam, that the beam spots in Figure 3A of Yamazaki '096 appear to be the same size, and that the record is silent as to these features. However, agreement was not reached on the matter.

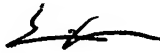
In light of these deficiencies in the final Official Action, the Applicant's representative requested that the Examiner either reopen prosecution at this time or allow the present application; however, these requests were refused. Based on the record as it stands, for at least the reasons noted above and for the reasons of record, the Examiner has not demonstrated a *prima facie* case of obviousness. Therefore, the Applicant presently requests relief by way of the pre-appeal brief panel review process.

Therefore, reconsideration and withdrawal of the rejections under 35 U.S.C. §§ 102 and 103 are in order and respectfully requested. Since the Official Action has not presented a *prima facie* rejection, at the very least, the Examiner's arguments are not suitable for appellate review. The Applicant respectfully requests that the present application be allowed on the existing claims pursuant to the provisions of the Pre-

Appeal Brief Conference Pilot Program (1296 Off. Gaz. Pat. Office 67 (July 12, 2005); extended January 10, 2006).

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



Eric J. Robinson
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